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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,457	06/23/2003	Thomas N. Chalin	WCMI-0037	9392

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EXAMINER

ROSENBERG, LAURA B

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,457

Applicant(s)

CHALIN ET AL.

Examiner

Laura B. Rosenberg

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-12 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment submitted on 24 May 2005, in which claims 2, 14, and 16 were amended and claims 1 and 13 were canceled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Stroh et al. (5,741,027). Stroh et al. disclose:

- Suspension system (best seen in figure 1)
- Axle assembly (including #12, 22)
- Axle beam (#12) made of composite material (column 6, lines 38-42)
- King pin receiver (#22)
- Axle beam has at least a portion of an attachment (including #42) that can be used for a pivoting arm (such as a spring)
- Pivoting arm attachment includes a reinforcement (#70) spanning a hollow interior of axle beam (interior between #66 and #68 would be hollow without the reinforcement #70 that span it; can be seen in figure 7)

Art Unit: 3616

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-12 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Freitas, Jr. et al. (2004/0145144A1) in view of Stroh et al. (5,741,027). De Freitas, Jr. et al. disclose:

- Suspension system (best seen in figures 1-4)
- Axle assembly (#10)
- Axle beam (#12)
- King pin receiver (#34) is a portion of a device (#16) formed separately from the axle beam (best seen in figures 1-4)
- Axle beam has at least a portion of an attachment (including #36) that can be used for a pivoting arm (such as a V-rod)
- Pivoting arm attachment includes a reinforcement (web that connects flanges of the axle beam) spanning a hollow interior of axle beam (interior between flanges of axle beam would be hollow without the web that spans it; best seen in figure 5)
- Device (#16) made of metal (paragraph 0015)
- Device includes axle seat (including #23, 24, 28) complementarily shaped relative to axle beam (best seen in figure 2) and "bonded" to axle beam (best seen in figures 1, 3, 4)

Art Unit: 3616

- Device (#16) includes first and second attachments (#38, 40) that can be used for first and second pivoting arms (for example, a longitudinal link)
- Device constructed of attached metal plates (for example, metal forging or casting)
- Device material wrapped around the king pin receiver (best seen in figures 1-4)
- King pin receiver, axle seat, and pivoting arm attachment integrally formed in device (best seen in figures 1-4)
- Axle beam, king pin receiver, and pivoting arm attachment are integrally formed as a single piece (best seen in figures 1-4)

Though not specifically shown, based on the configuration of the reinforcement (web within axle beam) and the location of the pivoting arm attachment (#36) on the axle beam (#12), the fasteners (not labeled, but best seen in figure 3) would extend through the reinforcement.

De Freitas, Jr. et al. do not disclose the axle beam, device, king pin receiver, or pivoting arm attachment being made of composite material. Stroh et al. teach a suspension system comprising an axle assembly (including #12, 22) including an axle beam (#12) made of composite material. It would have been obvious to one skilled in the art at the time that the invention was made to modify the axle beam, device, king pin receiver, and pivoting arm attachment of De Freitas, Jr. et al. such that they comprised composite material as claimed in view of the teachings of Stroh et al. so as to allow the components to achieve specific desired properties resulting from a certain material choice (Stroh et al.: column 6, lines 38-42). In addition, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability

Art Unit: 3616

for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Further, De Freitas, Jr. et al. disclose that the axle beam and device can be made from any material and process (paragraph 0015). Finally, the method of forming is not germane to the issue of patentability, and thus has not been given patentable weight.

Response to Arguments

6. Applicant's arguments filed 24 May 2005 have been fully considered but they are not persuasive.

In regards to page 7 and the Stroh rejection, the interior of the beam would be hollow without the reinforcement (web). Thus, the reinforcement spans a hollow interior of the axle beam, as claimed.

In regards to pages 7-8 and the De Freitas in view of Stroh rejection, the Stroh reference is being applied to teach the benefits of a composite material for use in suspension system components. Further, the examiner has provided additional motivation for the selection of a specific material.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B. Rosenberg whose telephone number is (571) 272-6674. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/602,457
Art Unit: 3616

Page 7

Laura B. Rosenberg
Laura B Rosenberg
Patent Examiner
Art Unit 3616

LBR

Paul N. Dickson 7/28/05
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